

## Sale of prescription data breaches confidentiality

Clare Dyer, *legal correspondent, BMJ*

Doctors and pharmacists who sell information about doctors' prescriptions to a database company for commercial use would breach patient confidentiality even though the information was anonymised, a High Court judge ruled last week.

The case is the first in the English courts to raise the question of whether the use of anonymised data breaches patient confidentiality.

The ruling at the High Court in London throws into question the legality of the widespread use of anonymised data from patients' medical records for medical research.

Mr Justice Latham held that pharmacists and doctors could not lawfully take part in a scheme to sell prescription information to pharmaceutical companies because patients' implied consent covered use of their data only for treatment and related NHS purposes.

Source Informatics, a subsidiary of a US company, had challenged Department of Health guidelines saying that disclosure of details from prescriptions would constitute a breach of confidentiality which could lay doctors and pharmacists open to legal action.

Source Informatics operates

a prescriber database for pharmaceutical companies wanting to target GPs more precisely with promotions and information about their products.

After the Department of Health's guidance in July 1997, GPs had refused to allow their prescription details to be supplied to the database.

The judge was not willing to pronounce on the legality of using anonymised patient records for research without hearing evidence specifically on the point, so this remains an open question.

He said that there were two possible arguments that doctors

or researchers could use if the question arose: that patients had given implied consent to the use of their records for research or that disclosure of the information in these circumstances would be in the public interest.

Source Informatics was given permission to appeal to the Court of Appeal after its counsel, Sarah Moore, told the judge: "This case raises issues of huge importance for the law of confidentiality."

She added: "There is very little authority on this point despite the fact that material from patients' records is routinely used for statistical and research purposes." □

## Cycle helmets should not be compulsory

Douglas Carnall, *BMJ*

Cyclists are advised to wear helmets but legislation to make them compulsory is likely to reduce the number of people choosing to cycle and would not be in the interests of health, concludes the BMA's Board of Education and Science.

International evidence shows that the compulsory use of helmets results in a fall in the number of cyclists. The Australian state of Victoria made the use of helmets compulsory in 1990, and in the following year deaths and head injuries among cyclists fell between 37% and 51%. However, 40% fewer adults and 60% fewer children continued to cycle after the introduction of the laws.

About one in five cyclists in Britain currently wears a helmet. This proportion would have to be increased by promotional

campaigns encouraging voluntary action before legislation could hope to be effective.

Some cyclists are opposed to wearing helmets. Research by the European Cycling Federation found that non-cyclists tended to be most in favour of helmets. In fact, a much greater number of lives would be saved if pedestrians and car occupants were encouraged to wear helmets.

The board's previous reports have concluded that the benefit to health of regular exercise from cycling outweighs the British cyclist's comparatively high risk of trauma. In countries such as the Netherlands and Denmark pedestrians and cyclists form a much smaller proportion of those injured or killed on the road, though helmets are little used. Instead, these countries have concentrated on safety programmes to reduce motor traffic speeds to 30 km/h in urban areas and separate cyclists from fast moving traffic.

Properly fitted helmets manufactured to accepted standards can reduce the severity of head injury in a crash, though the tests on which these standards are



Children may derive more benefit than adults from cycle helmets

based mimic a fall from a cycle rather than collision with a fast moving vehicle, which is most likely to harm an adult cyclist.

Children are more likely to simply fall off their bicycles and may therefore derive more benefit from wearing a helmet. However, the cost—between £12 and £90—and the necessity of replacing helmets every few years as the child grows may be prohibitive.

The report recommends that the government should consider subsidising this cost, along with other measures to promote helmets manufactured to the highest standard (Snell B95). It also recommends that every child should be given the opportunity to learn cycling proficiency and that the driving test should be modified to test specifically for awareness of cyclists and other road users. □